

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NEAL A. BELT,	)	
	)	
Plaintiff,	)	Case No. C04-2490-JCC-JPD
	)	
v.	)	
	)	
JO ANNE B. BARNHART, Commissioner,	)	ORDER
Social Security Administration,	)	
	)	
Defendant.	)	
_____	)	

This matter has come before the Court on Magistrate Judge Donohue’s Report & Recommendation (“R&R”) (Dkt. No. 18), Plaintiff’s objections thereto (Dkt. No. 20), and Defendant’s response (Dkt. No. 22). The Court, having reviewed these documents and the remaining record, hereby ADOPTS the R&R.

The Court does not find that Plaintiff’s objections raise any issues not properly addressed by Magistrate Judge Donohue. The Commissioner’s decision to deny benefits “will be disturbed only if it is not supported by substantial evidence or it is based on legal error.” *Browner v. Sec’y of Health & Human Servs.*, 839 F.2d 432, 433 (9<sup>th</sup> Cir. 1987), *quoting Green v. Heckler*, 803 F.2d 528, 529 (9<sup>th</sup> Cir. 1986). Having reviewed the record, the Court finds that the ALJ’s findings were supported by “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *Smolen v. Chater*, 80 F.3d 1273, 1279 (9<sup>th</sup> Cir. 1996). Plaintiff’s objections stem from his contention that the record *could* be read to support his position. However, where the evidence is susceptible to more than one rational interpretation, it is the Commissioner’s conclusion that must be upheld. *Thomas v. Barnhart*,

01 278 F.3d 947, 954 (9<sup>th</sup> Cir. 2002). Thus, the existence of evidence in the record supporting  
02 Plaintiff's position does not require reversal of the ALJ's decision.

03 Plaintiff challenges the ALJ's hypothetical to the VE because it did not expressly  
04 mention a limitation about impaired concentration. However, as Magistrate Judge Donohue  
05 explained, the ALJ accounted for Plaintiff's impaired concentration in requiring that  
06 hypothetical jobs be non-public and involve limited contact with co-workers and limited  
07 supervision.

08 Finally, Plaintiff's arguments regarding the ALJ's consideration of the evidence on the  
09 record were all properly and correctly addressed by the R&R. The Court finds that the ALJ  
10 made proper determinations regarding Plaintiff's credibility and the medical evidence and that  
11 his decisions were supported by sufficiently stated reasons.

12 Accordingly, the Court does hereby find and ORDER:

- 13 (1) The Court adopts the Report and Recommendation;  
14 (2) The final decision of the Commissioner is AFFIRMED and this action is  
15 DISMISSED with prejudice.  
16 (3) The Clerk is directed to send copies of this Order to the parties and to  
17 Magistrate Judge James P. Donohue.

18 DATED this 6th day of February, 2006.

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21 John C. Coughenour  
22 United States District Judge  
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